IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7282 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

WESTERN INDIAN MOTOR CAR CO. - Petitioner(s)

Versus

MAHESHBHAI J PANCHAL - Respondent(s)

==========

Appearance :

MR KM PATEL for Petitioner No(s).: 1.

MR RK MISHRA for Respondent No(s).: 1 - 1.

None for Respondent No(s).: 1 - 1.

==========

CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 26/08/2005

ORAL JUDGMENT

.

1. This petition is directed against the judgment and award 16th May, 1997 passed by the Labour Court, in Reference [L.C.V.] No. 835 of 1986, whereby the Labour Court has directed the petitioner to reinstate the

respondent with continuity in service and full back wages.

2. The short facts of the case are that the respondent was working as a Mechanic in the workshop of the petitioner. The respondent thereafter resigned from the service w.e.f. 31st December, 1981. However he was again appointed in service vide order dated 1st March, 1982. It is the case of the petitioner that the respondent again resigned from the service and the same was accepted w.e.f. 8th May, 1986. Feeling aggrieved by the said action, the respondent raised an industrial dispute which was ultimately referred to the Labour Court, Vadodara for adjudication. The Labour Court after considering the case on merits, passed the impugned award as stated above. Hence, this petition.

3. I have heard the learned counsel for the parties. Having perused the materials produced on record, it transpires that the respondent has expired and, therefore, there is no question of reinstatement in service. Since the respondent has expired, I am of the opinion that no fruitful purpose would be served by confirming the order of reinstatement with continuity in

service. The only question which is required to be considered in this petition is with regard to back wages. Looking to the peculiar facts and circumstances of the case, it would be appropriate to grant a lump sum amount by way of ex-gratia to the legal heirs of the respondent in lieu of back wages. In my opinion, an amount of Rs.24,000=00 by way of ex-gratia towards the full and final settlement of the impugned award of the Labour Court, would be sufficient. The said amount will be distributed to each of the legal heirs equally.

4. In above view of the matter, the impugned award of the Labour Court is modified to the extent that the petitioner is directed pay an amount of Rs.24,000=00 [Rs. Twenty Five Thousand only] as ex-gratia to the legal heirs of the respondent towards the full and final settlement of the award. It is clarified that the aforesaid amount shall be towards the full and final settlement of the impugned award. The petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

/phalguni/